

# Exhibit C

**DECLARATION OF JOHN G. THOMPSON  
UNDER 37-CFR 1.131 ANTEDATING A PRIOR ART REFERENCE**

I, John G. Thompson, acknowledge that any willful false statements in the like are punishable by fine or imprisonment or both and they jeopardize the validity of the application or any patent issuing thereon. All statements made herein are made of my own knowledge and are true and all statements made on information and belief are believed to be true. I hereby declare that I am the inventor of U.S. Patent Application Serial No. 10/811,664 entitled MIRRORRED VOLUME REPLICATION METHOD, APPARATUS, AND SYSTEM, which was filed on March 29, 2004. I have recently become aware of a prior art reference which has been cited against this patent application. The reference is U.S. Patent Application Publication No. US2005/0081091, to Bartfai, et al. (referred to herein as "Bartfai") filed on September 29, 2003, for a METHOD, SYSTEM, AND ARTICLE OF MANUFACTURE FOR RECOVERY FROM A FAILURE IN A CASCADING PPRC SYSTEM.

I declare that I invented the subject matter of my patent application prior to the filing date of Bartfai. Specifically, Bartfai was filed on September 29, 2003. My invention was reduced to practice prior to September 24, 2003. Additionally, I was diligent in filing the patent application from the date of September 24, 2003 until the actual filing date of the patent application which was March 29, 2004.

As evidence of conception and reduction to practice there is attached hereto an IBM disclosure submission form number SJO8-2003-0165 (which includes the main idea page and all attachments) which I created on September 24, 2003. I declare that the disclosure submitted in IBM disclosure submission form number SJO8-2003-0165 is a complete disclosure of the invention to another. The invention disclosure form contains a complete description of my invention which evidences the fact that the invention was reduced to practice as of that date. The completeness of the invention is supported by the fact that the main idea document having the same disclosure number SJO8-2003-0165, with its attachments, clearly describes the invention.

As evidence of this complete description, I note that the Main Idea document and the attached drawing completely describe the invention. Specifically, the last paragraph of the Main Idea document and the attached drawing describe storing an original primary volser in a dump conditioning field of a secondary volume when the volser of the secondary volume is changed.

In addition to reduction to practice, I exercised diligence in submitting the invention submission to IBM and in facilitating the patent filing process. IBM then conducted a search which was completed on November 21, 2003, as evidenced by the section on page 5 of the disclosure document marked "Search Information." Subsequently, IBM attorneys reviewed the search to determine if a patent application would be filed. Upon determining to file a patent application (See Invention Disclosure document number SJO8-2003-0165, pg. 5) , a patent

application was initiated with outside counsel for preparation and filing on December 5, 2003 (See IBM Cover letter dated December 5, 2003). The outside counsel then took a disclosure for the patent application during January of 2004. I worked with outside counsel to revise a draft of the patent application in March of 2004. It was then submitted to the in-house IBM attorney on or about March 22, 2003 for final review. The patent application was approved by myself and the IBM attorney and ultimately filed on the date of March 29, 2004. All parties involved exercised due diligence in preparing, reviewing, and submitting the patent application.

I further declare that the referenced Bartfai patent application, filed on September 29, 2003 does not claim the same invention as my patent application.

Dated this 5th day of 5 February 2007



John G. Thompson